

# SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 404-521-9900

THE CANDLER BUILDING  
127 PEACHTREE STREET, SUITE 605  
ATLANTA, GA 30303-1840

Facsimile 404-521-9909

March 18, 2014

## **VIA Electronic Mail**

U.S. Environmental Protection Agency  
Region 4 Freedom of Information  
SNAFC Bldg, 61 Forsyth Street, S.W., 9th Flr  
Atlanta, Georgia 30303-8960

**Re: Freedom of Information Act Request – Isla de Mapache Mitigation  
Bank, Camden County, Georgia**

To Whom It May Concern:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, the Southern Environmental Law Center (“SELC”) requests all documents in the possession or control of the U.S. Environmental Protection Agency (“EPA”) that relate to the proposed wetland compensatory mitigation bank, Isla de Mapache Mitigation Bank, otherwise known as Raccoon Key. This proposed mitigation bank is located in the Cumberland-Saint Simons Watershed in Camden County, Georgia, and is a barrier island surrounded by Dover Creek, Umbrella Creek, Saint Andrews, and the Satilla River.

We are also requesting documents related to the enforcement action initiated by EPA and in coordination with EPA, the Army Corps of Engineers Savannah District, and Georgia Department of Natural Resources, Coastal Resources Division for unauthorized activity on the island in 2008.

For the purposes of this request, the term “documents” includes all written, printed, recorded or electronic: materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession or control of the EPA.

FOIA directs a responding agency to make a “determination” on any request within twenty (20) working days of receipt. *See* 5 U.S.C. § 552(a)(6)(A)(i). FOIA also requires the release of all reasonably segregable portions of a document that are themselves not exempt. 5 U.S.C. § 552(b). Should our requests be denied, we request that you inform us of the grounds for denial and the specific administrative appeal rights which are available. *See* 5 U.S.C. § 552(a)(6)(A)(i).

SELC is requesting photocopies without charge, or at a reduced charge, because reduction or waiver of fees would be in the public interest. A disclosure is in the public interest if (1) it is likely to contribute significantly to public understanding of the

operations or activities of the government, and (2) it is not primarily in the commercial interest of the requester. The public interest standard of the fee waiver provision of the FOIA should be “liberally construed” in favor of waivers. *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9<sup>th</sup> Cir. 1987); *Pederson v. Resolution Trust Corp.*, 847 F. Supp. 851, 855 (D.Colo.1994); *Etlinger v. FBI*, 596 F. Supp 867, 872 (D. Mass. 1984). The goal of the statute is to avoid the “roadblocks and technicalities which have been used by various Federal agencies to deny waivers....” *Pederson*, 847 F. Supp. at 855.

SELC is a 501(c)(3) non-profit organization with over 20 years of experience disseminating public information regarding EPA regulatory and operations issues. *See* 5 U.S.C. § 552 (a)(4)(A)(iii). SELC maintains a website that includes both general and topic-specific information regarding the matters with which SELC is involved. For example, SELC frequently publishes reports and issues press releases regarding its projects (*See e.g.*, “Known Flaws Sunk Savannah Harbor Project with South Carolina” [http://www.southernenvironment.org/newsroom/press\\_releases/known\\_flaws\\_sunk\\_savannah\\_harbor\\_project/](http://www.southernenvironment.org/newsroom/press_releases/known_flaws_sunk_savannah_harbor_project/).) Lawyers at SELC are interviewed by the media to explain their work and its significance. (*See, e.g.*, “Corps warns it may ignore S.C. to deepen Savannah harbor,” *The State*, October 18, 2011, <http://www.thestate.com/2011/10/18/2013263/corps-warns-it-may-ignore-sc-to.html#ixzz1b9GgfIEy>.) SELC’s website contains documents generated by SELC for the specific purpose of educating the public on particular issues. (*See e.g.*, “Savannah Harbor Deepening: Costly River Deepening Unrelated to Port Business,” [http://www.southernenvironment.org/cases/port\\_expansions\\_a\\_race\\_to\\_the\\_bottom/](http://www.southernenvironment.org/cases/port_expansions_a_race_to_the_bottom/).) SELC also speaks at conferences on particular topics. (*See, e.g.*, Center for Sustainable Coast Savannah Harbor Conference, May 26, 2010). SELC also assists the public in locating information relating to a particular topic by collecting and posting relevant information, documents, and links to other websites.

A fee waiver clearly will benefit the general public through increased notice and understanding of the operations of the government and of potential or proposed major policy incentives. SELC further certifies that disclosure of the information sought is not in our commercial interest.

Should SELC’s request for reduced or waived fees be denied, SELC is prepared to bear the reasonable duplication and search costs necessary to fulfill this request. However, I request you contact me before processing this request if the fee is expected to be in excess of \$100. SELC reserves its right to appeal a fee waiver or reduction denial.

If you have any questions regarding this request, please feel free to call me at 404-521-9900. Thank you for your prompt attention to this matter. We look forward to receiving the public records requested.

EPA – Region 4 Freedom of Information  
March 18, 2014  
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read 'Aliste Harris', with a long horizontal stroke extending to the right.

Aliste Harris  
Associate Attorney